



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101

September 2, 1993

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Walter Nowatny, Esq.  
The Doe Run Company  
1801 Park 270 Drive - Suite 300  
St. Louis, Missouri 63146

Kenneth R. Buckley, General Manager  
Doe Run Resource Recycling Facility  
Buick Facility  
Boss, Missouri  
11885 Lackman Road, Suite 400  
St. Louis, Missouri 63145

Re: The Doe Run Company  
RCRA Docket No. VII-93-H-0024

Dear Mr. Nowatny and Mr. Buckley:

Enclosed for your files is an executed copy of the Agreement agreed upon by the above referenced and the Environmental Protection Agency.



R00317486  
RCRA RECORDS CENTER

Sincerely yours,

*Venessa Cobbs*  
Venessa Cobbs  
Regional Hearing Clerk

Enclosures

cc: Anne W. Rowland  
Assistant Regional Counsel  
U.S. Environmental Protection Agency

*bcc: John Smith*

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VII  
726 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101



IN THE MATTER OF:

THE DOE RUN COMPANY  
Boss, Missouri

)  
)  
) DOCKET NO.  
) RCRA-VII-93-H-0024  
)  
)

) AGREEMENT  
)

I. PRELIMINARY STATEMENT

1. This Agreement is made and entered into by the United States Environmental Protection Agency, Region VII, ("EPA"), and The Doe Run Company, a general partnership jointly owned by Leadco Investments, Inc., Doe Run Investment Holding Company, and St. Joe Minerals Corporation, ("Doe Run"). EPA and Doe Run are hereinafter collectively referred to as "the parties." The parties agree to the terms set forth below.

2. The purpose of this Agreement is for EPA to grant a limited extension of time to Doe Run to certify that furnaces at its facility on Highway KK in Boss, Missouri ("Facility") are in compliance with 40 C.F.R. Part 266, Subpart H, (the Boiler and Industrial Furnace Regulations, hereinafter "BIF"), promulgated pursuant to the authority of Section 3004(q) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6924(q), and in particular, the interim status requirements of 40 C.F.R. § 266.103(c). Such an extension is authorized by

40 C.F.R. § 266.103(c)(7)(ii) if compliance with the time limit is not practicable for reasons beyond the control of the owner and operator. In granting an extension, 40 C.F.R. § 266.103(c)(7)(ii)(A) provides that EPA may also apply conditions as the facts warrant to ensure timely compliance with the interim status requirements and to ensure that facility operations do not pose a hazard to human health and the environment.

## II. BACKGROUND

1. Doe Run owns and operates the Facility for both primary and secondary lead smelting operations. Doe Run operates a blast furnace and a reverberatory furnace to process hazardous waste for materials recovery at the Facility.

2. During secondary lead smelting operations at the Facility, hazardous waste is processed to recover metals. The operations at the Facility require storage of this hazardous waste prior to processing, and storage, treatment, or disposal of any hazardous waste generated by the processing.

3. On September 27, 1989, the Missouri Department of Natural Resources (MDNR) and EPA jointly issued Doe Run a Part B Permit pursuant to RCRA to meet the requirements of the Hazardous and Solid Waste Amendments of 1984 (HSWA), and to operate the Facility as a treatment, storage, or disposal (TSD) facility.

4. On August 21, 1991, the BIF regulations became effective. The BIF interim status requirements found at

40 C.F.R. § 266.103 apply to owners and operators of boilers and industrial furnaces that were in existence on August 21, 1991, and that process hazardous waste.

5. An industrial furnace is defined at 40 C.F.R. § 260.10 as an enclosed device that is an integral component of a manufacturing process and that uses thermal treatment to accomplish recovery of materials or energy. Blast furnaces and reverberator furnaces are specifically included in the definition.

6. Appendix XI to BIF exempts from BIF regulation certain hazardous wastes that are processed in BIF units for purposes of materials recovery.

7. Doe Run submitted a Part A application to EPA on August 19, 1991, identifying its furnaces as BIF units, and thereby obtained BIF interim status for those units. Doe Run submitted a Class 3 Permit Modification request for these units on February 20, 1992.

7. Doe Run did not certify that its Facility was in compliance with certain emissions standards of BIF, set forth at 40 C.F.R. §§ 266.104(b) through (e), 266.105, 266.106, 266.107, and 266.103(a)(5)(i)(D) on August 21, 1992, as required by 40 C.F.R. § 266.103(c), but, notified EPA that, as authorized by 40 C.F.R. § 266.103(c)(7)(i)(B), it would limit its processing of BIF-regulated hazardous waste to purposes of compliance testing for not more than seven hundred and twenty hours for the time period beginning August 21, 1992, and ending August 21, 1993, and

that the Facility intended to submit a complete certification of compliance by August 23, 1993.

8. In July of 1993 the Facility submitted to EPA a letter stating that it was in compliance with all of the requirements of BIF except the requirement that it have a continuous emission monitor (CEM), that it would be unable to install the CEM until October of 1993 due to reasons beyond its control, and that the Facility was therefore requesting an extension to certify compliance until October 23, 1993.

9. 40 C.F.R. § 266.103(c)(7)(ii) confers to EPA the authority to grant such an extension of time and to condition the extension of time on Doe Run's compliance, during the extension of time, with certain conditions determined necessary by EPA.

### **III. DETERMINATIONS**

1. EPA has reviewed the Facility's partial certification of compliance and has determined that additional standards must be included in the certification in order for Doe Run to comply with the BIF interim status requirements, and to ensure that the facility operates in a manner that does not pose a hazard to human health and the environment.

2. EPA has further determined that compliance with the time limit is not practicable for reasons beyond the control of Doe Run, and that EPA will grant Doe Run an extension of time until October 23, 1993, pursuant to 40 C.F.R. § 266.103(c)(7)(ii), to meet the certification requirements of BIF, as long as Doe Run

operates its Facility in accordance with the terms and conditions of this Agreement.

#### IV. AGREEMENT

1. During the period of this Agreement, Doe Run shall not process any BIF-regulated hazardous waste. Doe Run may continue to process those hazardous wastes exempted from the BIF requirements as specified in 40 C.F.R. Part 266, Appendix XI.

2. Doe Run shall install the continuous emissions monitors (CEM) for carbon monoxide and hydrocarbon at the Facility, conduct performance specification testing to meet the requirements for certifying compliance pursuant to 40 C.F.R. § 266.103(c), and modify its certification of compliance to include certification that its CEM is installed and operational by October 23, 1993.

3. EPA will review the certification of compliance submitted by Doe Run for the Facility and will notify Doe Run of deficiencies.

4. Within sixty days of receipt of EPA's notification under Paragraph 3 of this Section, Doe Run will modify its Certification of Compliance to meet any and all deficiencies noted by EPA.

5. If EPA determines that additional time is warranted to allow Doe Run to certify compliance with the deficiencies EPA has noted, EPA may grant Doe Run additional time to certify compliance. Such extension will be accomplished through a

modification to this agreement as specified in Section VI, Paragraph 1 below.

6. EPA and its authorized representatives shall have access to Doe Run's facility during regular business hours, including those times the furnaces are being operated, to monitor Doe Run's compliance with this Agreement.

7. Compliance by Doe Run with the terms of this Agreement shall not relieve Doe Run of its obligations to comply with all other applicable federal, state or local laws and regulations. This Agreement is not intended to be nor shall it be construed to be a permit. This Agreement does not relieve Doe Run of any obligation to obtain and comply with any local, state or federal permits.

#### **V. ENFORCEMENT/REMEDIES**

1. In the event that Doe Run fails to comply with any requirement specified in this Agreement, EPA reserves the right to enforce this Agreement pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, by initiating a judicial or administrative action, seeking injunctive relief and/or penalties against Doe Run in an amount not to exceed \$25,000 a day for each day of non-compliance with the terms of this Agreement, or by seeking any other remedy allowed by law. Doe Run agrees that EPA has authority to enforce this Agreement pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928, and agrees not to contest such jurisdiction in an action to enforce this Agreement. In consenting to jurisdiction, Doe Run voluntarily agrees to



undertake the actions required by this Agreement, but Doe Run does not admit to any violation of law or regulation.

**VI. SUBSEQUENT MODIFICATION**

1. This Agreement may be modified only by mutual agreement of the parties. Such modification shall be in writing, shall be signed by all parties, shall be effective on the date specified therein, and shall be incorporated into this Agreement. In the event of a change in the regulations, Doe Run may request that EPA modify or terminate this Agreement accordingly and EPA may then modify or terminate this Agreement.

**VII. EFFECTIVE DATE AND TERMINATION OF EXTENSION AGREEMENT**

1. This Extension Agreement shall become effective upon execution of this Agreement by both parties.

2. This Agreement shall terminate on the earlier of:

(a) the date EPA notifies Doe Run in writing that EPA has determined that Doe Run has met the requirements for BIF interim status as specified in Section IV, above; or

(b) the date EPA notifies Doe Run in writing that EPA has determined that Doe Run has not met the requirements for BIF interim status and its interim status has been terminated, or

(c) the date that EPA notifies Doe Run that its Class 3 Permit Modification request has been granted or denied.



**VIII. NOTICES**

1. All notices which may be required under this Agreement shall be provided to the parties in writing and mailed via certified mail, addressed to the following:

As to Doe Run:

Kenneth R. Buckley  
General Manager  
Doe Run Resource Recycling Facility  
Buick Facility  
Highway KK  
Boss, Missouri 65440

As to EPA:

Robert Stewart  
Section Chief  
RCRA Permits Section  
Waste Management Division  
U.S. EPA, Region VII  
726 Minnesota Avenue  
Kansas City, Kansas 66101

All time periods to be calculated pursuant to this Agreement shall commence as of the date of receipt by a party of any notice hereunder.

IT IS SO AGREED.

August 23, 1993  
Date

David A. Wagoner  
David A. Wagoner  
Director  
Waste Management Division  
Region VII EPA

THE DOE RUN COMPANY  
Boss, Missouri

DOCKET NO. RCRA-VII-93-H-0024

8/23/93  
Date

Anne W. Rowland  
Anne W. Rowland  
Assistant Regional Counsel  
Region VII EPA

8/21/93  
Date

Kenneth R. Buckley  
Kenneth R. Buckley  
General Manager  
Doe Run Resource Recycling Facility  
Buick Facility  
Boss, Missouri  
11885 Lackman Road, Suite 400  
St. Louis, Missouri 63146